

**IN THE CLAIMS AS TO REJECTION PER 35 U.S.C. SECTION 112**

Amended claim 21 has been amended to obviate its rejection and is consistent with the Examiner's suggested amendment. Both claims 21 and 23 are amended to recite steel stock, which is the preferably chosen material of fabrication (Spec. pg. 23 and 24).

**APPLICANT RESPONSE TO DOUBLE PATENTING REJECTION**

The position of the Examiner is duly noted in requiring "Timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c)" etc. For that requirement, Applicant has employed PTO/SP/26 form titled "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent." It has been duly executed by the sole patentee of the prior patent being relied upon, who is the sole Applicant for the present examined continuation application. This formal submission is deemed to fully obviate this ancillary ground of rejection and the lifting thereof is courteously solicited.

**CLAIMS REJECTION PURPORTEDLY BASED ON SHER 4,054,268 (1977)**

Rejected claims 21-22 and 24-26 are directed to rigid channel members having a three-sided rectangular cross section (see Fig. 19 as to claims 21 and 22); and, alternately, to a rigid, angle-shaped member from extrudable aluminum stock having two member sidewalls (Fig. 20 as to claims 24 to 26). Incidentally, independent claim 26 is to a rigid channel member with three member sidewalls, not to the "right angular in cross-section" members of claim 24 and 25.

This ground of rejection is respectfully traversed based on the following analysis of the single Sher citation which neither teaches nor suggests the use of either the two or three-sided channel members of these four claims. Rather, Sher teaches a "Glass Panel railing" adapted along its lower edge (pad 42 in Fig. 3) for mounting along a stairwell." Also per Fig. 3, the vertical glass

panel 22 is clamped between opposing complemental bracket-like support members 36/38, each of which are flanged at their upper ends to hold the pane. Adjustment plates 47/50 and pad 48/52 fill the recess defined by opposing brackets 36/38. This figure, and associated specification passages, simply do not suggest a transverse configuration for the bracket members which is rectangular in cross section or right angular in cross-section. Looking now to the Examiner's cited Sher Fig. 7 in particular, there is seen an alternate embodiment which depicts dissimilarly-shaped bracket members, one of which is rigid pressure plate 50'', surmounted by opposing dual-component, trim members 158 and 160. Alternate side bracket 100 grips glass pane 22' at spaced-apart points.

Neither of these depicted embodiments teaches or suggests a rigid channel member formed from sheet steel with a transverse configuration of either a rectangular cross section (see Applicant Fig. 19) or of a right angular cross section (see Applicant Fig. 20) as set forth in the presently rejected claims. Moreover, and quite clearly, this citation makes no teaching or suggestion of a first or any pair of externally-placed linear grooves arrayed in parallel; and then being located proximal to one of the seams of the center sidewall in the rectangular cross section, for example. There is simply no suggestion of or where any linear groovings could be engrafted on the Sher rail mounting brackets. Such are for the express purpose of permitting controlled separation of at least one sidewall of the channel member.

This citation wholly lacks motivation for engrafting the inventive channel members of the stated cross sections. The present channel members are always coupled with one of more pairs of functional linear groovings.\*

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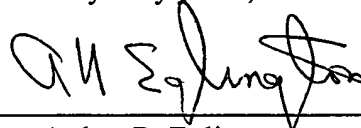
\* Cf. ACS Hosp. System v. Montefiore, 732 F.2<sup>nd</sup> 1572, 1577 (Fed. Cir. 1984) and In re Oetiker, 977 F.2<sup>nd</sup> 1443, 1447 (Fed. Cir. 1992) stating that there must be some reason, suggestion, or motivation found in the prior art, whereby a person of ordinary skill in the field of the invention would make the combination. Glass panel railing brackets are manifestly not in the art of building complex scaffolding using working and flaring of malleable metal channel components of variable lengths and cross sections.

This panel railing and building structure tubing members are manifestly not found in the art of working and flaring malleable metal tubings like that of sheet steel, and/or of aluminum. This basis of claim rejection has been fully overcome and should be withdrawn as to amended original claims 21-22 and 24-26. Riders A and B present those claims necessarily amended herewith in the marked up form, and the clean copy form respectively.

In sum, the Section 112 rejections have been fully met by the instant amendments of independent claims 21 and 24 and those claims dependent therefrom; a doubling patenting rejection is obviated by the here-submitted terminal disclaimer; and recall of the rejection of selected claims for obviousness, based on a single remote art citation, the non-pertinence of which is set forth above, should place this case in condition for a Notice of Allowance. Such PTO actions are courteously solicited.

Enclosures:  
Term. Disclaimer  
Clean Cover Page of Spec.  
Riders A&B

Very truly yours,

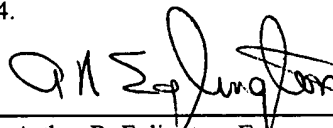


Arthur R. Eglington  
Reg. No.: 19,868  
113 Cross Creek Dr., R.D.#5  
Pottsville, PA 17901  
(570) 385-5021

**CERTIFICATE OF MAILING**

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Date: June 2, 2004



Arthur R. Eglington, Esq.

**STRUCTURAL TUBING MEMBERS WITH FLARED OUT END SEGMENTS FOR CONJOINING****CROSS-REFERENCE TO OTHER APPLICATIONS**

This is a regular patent application submitted for a filing receipt under 35 U.S. Code Section 111(a). It claims priority from a provisional patent application submitted under 35 U.S. Code Section 111(b), accorded Serial No. 60/081,869, filed April 16, 1998. This is a continuation in part of my copending Ser. No. 09/277,868 of March 29, 1999, same title, and now U.S. Patent No. 6,279,288, granted August 28, 2001.

**FIELD OF THE INVENTION**

The field of the invention are hollow structural metal or rigid members that are generally rectangular in cross sectional shape but with two opposing sides slightly wider than the other two opposing sides and with linear grooving formed near or upon the seams for the purpose of selective and controlled flaring of the tubing ends.

**BACKGROUND OF THE INVENTION**

Many modern greenhouses utilize elongated metal hollow tubing to construct various elements of the structure. Both square and rectangular cross-sectional shapes are utilized, as well as round and elliptical shapes. These are usually standard in cross sectional size, and typically measured by the outside dimensions of the cross-section.

Several wall thicknesses of steel are available in standard gauge dimensions (such as 12 gauge, 14 gauge, 16 gauge, etc.) to allow for a wide range of structural strength combinations. When hollow structural tubes are created from rigid materials that can be extruded, (such as aluminum or plastic), or from cold rolled, steel sheeting; the range of wall thicknesses is limitless.

Most of these structures are assembled on site, in an erector-set-like fashion. In many cases,